

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JAMES MUSGROVE, NOAH
MUSGROVE, AUTUMN MUSGROVE, and
VICTORIA MUSGROVE, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JAMES D. MUSGROVE,

Respondent-Appellant,

and

ANNETTE R. MUSGROVE,

Respondent.

In the Matter of JAMES MUSGROVE, NOAH
MUSGROVE, AUTUMN MUSGROVE, and
VICTORIA MUSGROVE, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ANNETTE R. MUSGROVE,

Respondent-Appellant,

and

JAMES MUSGROVE,

UNPUBLISHED
November 1, 2005

No. 262468
Calhoun Circuit Court
Family Division
LC No. 03-001384-NA

No. 262490
Calhoun Circuit Court
Family Division
LC No. 03-001384-NA

Respondent.

Before: Gage, P.J., and Hoekstra and Murray, JJ.

MEMORANDUM.

Respondents appeal as of right from the trial court's order terminating their parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Respondents first challenge the trial court's exercise of jurisdiction, arguing that the court erred in accepting their pleas to the original petition without complying with MCR 3.971. Matters affecting the trial court's exercise of jurisdiction in a child protection proceeding may be challenged only on direct appeal of the jurisdictional decision, not by collateral attack in a subsequent appeal of an order terminating parental rights. *In re Hatcher*, 443 Mich 426; 505 NW2d 834 (1993); *In re Gazella*, 264 Mich App 668, 679-680; 692 NW2d 708 (2005); *In re Powers*, 208 Mich App 582, 587-588; 528 NW2d 799 (1995); see also MCR 3.993(A)(1) (a dispositional order placing a minor child under the supervision of the court is appealable by right). Here, respondents failed to appeal the trial court's September 12, 2003, dispositional order entered pursuant to the court's exercise of jurisdiction, which was based on respondents' pleas. Therefore, this issue is not properly before this Court and we decline to consider it.¹

Next, respondents argue that the trial court erred in finding that the statutory grounds for termination were established by clear and convincing evidence and that termination of their parental rights was not clearly contrary to the children's best interests. We disagree.

The petitioner must establish a statutory ground for termination under MCL 712A.19b(3) by clear and convincing evidence. *Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Once the court finds that a statutory ground for termination has been established, MCL 712A.19b(5) requires that it terminate the respondent's parental rights to the child unless it finds that termination is clearly not in the child's best interests. *Id.* at 364-365. This Court reviews decisions terminating parental rights for clear error. *Id.* at 356.

The evidence established that both respondents lacked child management skills and failed to benefit from the numerous services that were offered to them. Additionally, respondent James Musgrove was unable to resolve his anger management issues. The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence.

Further, the evidence did not clearly show that termination of respondents' parental rights was not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, *supra* at 356-357. Thus, the trial court did not err in terminating respondents' parental rights to the children.

¹ In any event, no plain error occurred because the record reflects that both respondents signed waiver forms, and were questioned on the record.

Affirmed.

/s/ Hilda R. Gage

/s/ Joel P. Hoekstra

/s/ Christopher M. Murray